IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

WILLIAM BLAKE,	*	
Plaintiff,	*	
v.	*	Civ. No. L-07-50
BALTIMORE COUNTY, MARYLAND, *et al.*,	*	
Defendants.	*	

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MEMORANDUM

Yesterday evening, Ms. Cahill moved to admit evidence that a Baltimore County attorney told Mr. Wickless, shortly before his deposition, that "It is OK to forget things." The question now is whether I must hold an evidentiary hearing to get to the bottom of this issue.

The Court concludes than an evidentiary hearing is not necessary because, even if the alleged comment was made, it was not made with respect to a specific fact that the Court could then deem to be admitted. For example, if counsel requested a witness to "forget the fact that the driver was inebriated at the time of the accident," the Court could deem that fact to be admitted as a sanction for the improper conduct. That is not the case here because Mr. Cook never allegedly mentioned any facts that Mr. Wickless could forget. Given the length and detail of Mr. Wickless's memorandum conveying his advice to Chief Sheridan, a lapse of memory by Mr. Wickless would not cause that advice to be lost to the record. In an appropriate case, the Court would not hesitate to impose judgment against a party whose attorney was guilty of gross misconduct. Ms. Cahill is not pressing for such an extreme sanction here. As a result, there is no remedial action that the Court would be prepared to take.

Accordingly, the Court need not spend the time conducting an evidentiary hearing. If Ms. Cahill believes that opposing counsel acted in a manner that is worthy of a sanction, then a complaint could be filed with the attorney grievance commission. The record is complete. I will, however, leave the record open in the event that Mr. Cook wishes to file an affidavit in opposition to that the record will contain both sides of the issue.

Dated this 22nd day of April, 2010.

/s/
Benson Everett Legg
United States District Judge